

EXHIBIT A

**PUERTO RICO ELECTRIC POWER AUTHORITY
PROFESSIONAL SERVICES CONTRACT**

2019-P00092

APPEAR

As party of the First Part: The Puerto Rico Electric Power Authority (PREPA), a public corporation and government instrumentality of the Commonwealth of Puerto Rico, created by Act No. 83 of May 2, 1941, as amended, represented in this act by its Chief Executive Officer/Executive Director, mister José F. Ortiz Vázquez, of legal age, married, engineer and resident of San Juan, Puerto Rico.

As party of the Second Part: Power Constructors, Inc. (Contractor), a corporation organized and existing under the laws of the State of Idaho, with offices at 3940 Glenbrook Drive, Hailey, ID 83642, herein represented by its Vice President, mister Gerry Murray, of legal age, Professional Engineer, married, and a resident of Idaho, United States of America, duly authorized to appear in representation of the Contractor by Resolution dated February 28, 2019.

Both PREPA and Contractor are herein individuals referred to as a "Party" and collectively referred to as the "Parties".

WITNESSETH

WHEREAS, PREPA, by virtue of its enabling act (Act No. 83), has the authority to engage those professional, technical, and consulting services necessary and convenient to the activities, programs, and operations of PREPA;

WHEREAS, pursuant Section 205(2)(d) of Act No. 83 competitive bidding shall not be necessary when professional or expert services or work are required and PREPA deems it in the best interests of good administration for such works or services to be contracted without such announcements;



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WHEREAS, on July 2, 2017, PREPA filed a debt adjustment case (the "Title III Case") under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act, Public Law No. 114-187 dated June 30, 2016 (hereinafter, "PROMESA") with the U.S. District Court for the District of Puerto Rico (the "District Court");

WHEREAS, PREPA acknowledges that pursuant to the provisions of PROMESA, the Parties are not required to seek the District Court's authorization for the approval of this Contract and PREPA further acknowledges that it is acting within the scope of its authority in the execution of this Contract;

WHEREAS, according to the Integrated Resource Plan (IRP), PREPA has developed a long term plan to improve and modernize PREPA's generation system;

WHEREAS, with the IRP, PREPA pursues to obtain a transformation to reduce reliance on fuel oil, increase availability of clean burning natural fuel oil, increase availability of clean burning natural gas, increase renewable energy, comply with environmental requirements and improve economic dispatch through implementation of modern technologies;

WHEREAS, in order to comply with the established goals, PREPA will require the services of a technical consultant to provide advice with respect to PREPA's Grid Initiatives Plan, among others. PREPA will receive from the consultant all the necessary advice and support to comply with the transformation plan;

WHEREAS, PREPA needs the services of a consultant with a strong knowledge of utility energy efficiency programs, operations and infrastructure reconstruction. Also, PREPA needs to identify interconnection locations for various



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forms of generation including Solar PV, battery energy storage systems, flexible fossil-fired and combined cycle generation;

WHEREAS, the Contractor has vast experience in conducting similar analytical studies that will help Puerto Rico regain the most efficient, sustainable, and resilient power generation mix, which will result in significant benefit to PREPA and consequently, will substantially contribute to PREPA's Title III Case;

WHEREAS, PREPA is interested in obtaining the services of the Contractor for consulting services; and

WHEREAS, the Contractor states that it is ready, willing and able to provide the services pursuant to the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual promises and the terms and conditions set forth herein, PREPA and the Contractor agree as follows:

I. TYPE OF CONTRACT

A. Scope of Services

1. In accordance with the terms and conditions set forth herein, the Contractor will provide, to PREPA, a skilled team with appropriate qualifications to provide expert consulting services focused on the outcomes below (the "services"):

- a) The Contractor will provide services, which includes the validation of PREPA's PSS/E power flow model, and update the model, if it is necessary. The validated model will be used to analyze the electrical energy injection capacity of PREPA's



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Transmission and Distribution system at buses that operate at 38.8kV or higher.

- b) Project administration - Determine data requirements, develop a “request for information”, and coordinate data acquisition with PREPA staff. Schedule and attend kick-off meeting with PREPA staff. The relevant meetings will occur in person.
- c) Technical Advisory Support – Specialized advisory services to refine results, provide expert testimony or input thereto, perform sensitivity analyses, provide regulatory support, or management services.
- d) Project Injection Study – Validate PSS/E model, on-site, with PREPA Staff. Perform transmission analysis with validated model to identify and rank the electrical energy injection capability of the T&D system buses that operate at 38.8 kV or higher. Review Siemens PSS/E model, which was used as part of the IRP, to identify any significant differences and work with Siemens to resolve any differences.
- e) Generation Facility Site Selection - Based on the Injection Study Results, Contractor will evaluate potential sites for Solar PV, BESS, flexible generation, and new combined-cycle generating assets. Site selection will consider transmission capacity, constructability, land use, suitability, and resource availability.



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B. Additional Provisions Regarding the Services

1. Any and all changes and/or modifications to the scope of the Services shall be in writing and must be signed by both Parties.
2. The Contractor represents that it has or shall obtain, or cause to be obtained, all personnel necessary to undertake and provide the Services in a manner satisfactory to PREPA.
3. The Contractor may not subcontract any of the Services that it has committed to perform or provide pursuant to this Contract without the prior written approval of the Chief Executive Officer of PREPA or any of his or her authorized representatives. Such consent to subcontract shall not relieve the Contractor of its full responsibilities under this Contract. Consent to the subcontracting of any part of the services shall not be construed to be an approval of said subcontract or of any of its terms but shall operate only as an approval of the Contractor's request for execute a contract with its chosen subcontractor (hereinafter a "Subcontractor"). The Contractor shall be responsible for all services performed by the Subcontractor and all such services shall conform to the provisions of this Contract.
4. Both Parties acknowledge that both the inherent nature of the services, as well as the quantity and sequencing of services detailed above, will preclude completion of all the tasks detailed above before June 30, 2019.



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5. The Contractor will conduct the services primarily on Contractor's corporate offices, located outside Puerto Rico, but is expected to make its staff available to meet with and support PREPA staff as appropriate.
6. This Contract shall not be used to acquire services the nature of which would require Contractor to act in the capacity of a licensed engineer pursuant to Acts No. 173-1988 and No. 185-1997, as amended, and its implementing regulations, as applicable to the practice of engineering in Puerto Rico.
7. Contractor represents that it will perform its Services in accordance with generally accepted professional or technical practices existing at the time of performance. No other representation, express or implied, is made or intended by the performance of the Services provided. If required within the scope of the Services, the Contractor shall make visits to the land or premises on which the potential sites are located (the "Sites") at intervals appropriate to the study, in order to observe site conditions. It is understood and agreed that the Contractor shall have no constructive use or control of the Sites, and therefore shall have no responsibility whatsoever for any activities by other Parties at the Sites.

II. TERM OF CONTRACT; TERMINATION

A. Term

This Contract shall be in effect from the date of its execution until June 30, 2019 (the "Contract Period"). The Contract may be extended, at



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the exclusive option of PREPA, for additional annual fiscal periods, subject to the availability of funds.

The Parties acknowledge that any action taken in accordance with this Section shall not be construed as a violation of the automatic stay under Section 362 of the Bankruptcy Code, 11 U.S.C. § 362, as incorporated to PROMESA, this Contract is being executed after the filing of the Title III Case and the Parties had not engaged in business or executed any agreements prior to the filing of such Case.

B. Termination for Convenience

Either Party shall have the right to terminate this Contract for convenience, at any moment, by providing the other Party thirty (30) days written notice by registered mail, return receipt requested, or overnight express mail. If notice is given, this Contract shall terminate upon the expiration of thirty (30) days and PREPA shall be obligated to pay all fees and expenses incurred up to the day of effective termination, in accordance with the terms of this Contract. The rights, duties and responsibilities of the Parties shall continue in full force and effect during the thirty (30) day notice period. Contractor shall have no further right to compensation except for what has been accrued for services rendered under this Contract until said date of effective termination.

C. Termination for Cause



Either Party shall have the right to terminate this Contract immediately in the event of negligence, dereliction of duty, noncompliance, or material

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breach by the other Party, as determined in the reasonable discretion of the non-breaching Party, or for any other reason described elsewhere in this Contract as a basis for termination. In the event the Contract is terminated for cause, PREPA shall be obligated to pay all fees and expenses incurred up to the day of effective termination, in accordance with the terms of this Contract. Contractor shall have no further right to compensation except for what has been accrued for services rendered under this Contract until said date of effective termination.

III. COMPENSATION AND PAYMENT

As compensation for services rendered under this Contract, PREPA agrees and the Contractor accepts that the total amount to be paid under this Contract shall not exceed four hundred six thousand eight hundred ninety one dollars (\$406,891), (the “Contract Amount”), including reimbursable expenses. However, nothing herein shall preclude the Parties from agreeing to increase the Contract Amount. PREPA will only pay for services that are evidenced by properly submitted invoice for services rendered. Notwithstanding the foregoing, any increase to the Contract Amount shall be evidenced in writing and signed by both Parties. PREPA will not be required to make advance payments for any service to be rendered by Contractor under this Contract. Contractor shall promptly notify PREPA when the billing under the present Contract amounts to seventy five percent (75%) of the Contract Amount. Once this notification has been issued, Contractor, in coordination with PREPA, will



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ensure that no services will be rendered in excess of the Contract Amount, except when a written amendment is agreed upon by both Parties.

- A. In addition, Contractor shall present with each invoice a reasonably itemized list of the remaining billable work that is in progress under the Contract.
- B. PREPA shall pay the Contractor, for the Services at the rate established in the Annex A of the Contract.
- C. All payments performed under this Contract will be charged to PREPA's budget account number 01-4019-92319-556-673.
- D. Contractor shall submit monthly invoices within the first thirty (30) days following the period invoiced that will include a description of the services rendered and the number of hours spent. Each invoice for professional services shall be itemized with a reasonably detailed description of the work performed, the purpose of the task, and the FEMA Project Worksheet (PW) to which it pertains, if applicable. Invoices must be duly certified by an authorized representative of Contractor. Contractor shall allocate any invoiced fees between: (i) activities undertaken outside of Puerto Rico; and (ii) those relating to activities undertaken within Puerto Rico.
- E. PREPA will review the invoices within thirty (30) days of receipt, and if they are in compliance with the requirements set forth in this Contract, it will proceed with payment. Payment is due within 60 days of receipt. PREPA reserves the right to conduct the audits it deems necessary, and it will not be subject to finance charges regarding invoice payments subject to an audit.



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F. Invoices must also include a written and signed certification stating that no officer or employee of PREPA, and their respective subsidiaries or affiliates, will personally derive or obtain any benefit or profit of any kind from this Contract, with the acknowledgment that invoices that do not include this certification will not be paid. This certification must read as follows:

We certify under penalty of absolute nullity that no public servant of PREPA is a party or has any interest in the benefit or profit product of the Contract which is the basis of this invoice. If such benefit or profit exists, the required waiver has been obtained prior to entering into the Contract. The only consideration to be received in exchange for the delivery of Services provided is the agreed-upon price that has been negotiated with an authorized representative of PREPA. The total amount shown on this invoice is true and correct. The Services have been rendered, and no payment has been received.

Contractor's Signature

G. Contractor shall submit bank account wiring instructions to PREPA on or before submission of its first invoice to facilitate payment by means of electronic transfer, if applicable.

H. As required by Act No. 48-2013, as amended, PREPA will withhold a special contribution of one-point five percent (1.5%) of the gross amounts paid under this Contract.

I. In compliance with Executive Order 1991 OE- 24; and C.F.R. Part 404 et. seq., the Contractor will be responsible for rendering and paying the Federal Social



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Security and Income Tax Contributions for any amount owed as a result of the income, from this Contract.

J. PREPA shall deduct and withhold ten percent (10%) of all payments to residents of the Commonwealth of Puerto Rico as required by the Internal Revenue Code of Puerto Rico. In case of U.S. citizens and non-U.S. citizens, which are nonresidents of the Commonwealth of Puerto Rico, the Contractor will retain twenty percent (20%) and twenty-nine percent (29%) respectively. PREPA will remit such withholdings to the Government of Puerto Rico's Treasury Department (*Departamento de Hacienda de Puerto Rico*). The Contractor will request PREPA not to make such withholdings if, to the satisfaction of PREPA, the Contractor timely provides a release from such obligation by the Government of Puerto Rico's Treasury Department.

3 L.P.R.A. § 8611 et seq., 2011 L.P.R. 232; 232-2011.

K. All compensation and reimbursable expenses described herein shall be considered administrative expenses under Sections 503 and 507(a)(2) of the Bankruptcy Code, 11 U.S.C. §§ 503, 507(a)(2), as incorporated to Title III of PROMESA, Section 301, 48 U.S.C. §2161.

L. In the event that PREPA fails to timely pay in the ordinary course of business, the Contractor shall be entitled to file a motion for allowance of administrative expenses, which shall request the District Court to grant any amounts owed under the terms of this Contract as administrative expenses and shall request their immediate payment.



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- M. PREPA hereby acknowledges, agrees, covenants and warrants that no court approval is required under applicable state or federal law for the compensation and reimbursements described in this Contract, including but not limited to, authorization from the District Court in connection with PREPA's Title III Case under PROMESA.
- N. The Contractor will maintain records in support of any fees incurred in connection with the services it performs and will provide reasonably detailed descriptions of those services rendered, the time expended in providing those services, and the individuals who provided the Services. The Contractor will present such records to the District Court in the event that it has to file a motion for allowance of administrative expenses in PREPA's Title III Case.

IV. REIMBURSABLE EXPENSES

A. Limitation

PREPA shall reimburse Contractor for out of pocket expenses incurred in providing the Services, subject to the terms of this Contract. As established in Appendix A reimbursable expenses shall not exceed six percent (6%) of the Contract Amount and will be reimbursed by PREPA through the presentation of acceptable evidence for such expenses.

B. Travel Expenses


Contractor agrees to adhere to PREPA's travel expense policy attached hereto as Appendix A. Reimbursement for air travel expenses is restricted to lowest available economy airfares. PREPA shall not pay for travel time, provided, however, that Contractor personnel may work while

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traveling, and such time is compensable as otherwise provided under this Contract. Payment for travel time shall be made only if the invoice details the services rendered and the time billed on each matter as required in this Contract.

Any travel and lodging expense for which a reimbursement is requested shall be reasonable and necessary, and any travel and lodging expenses shall be authorized in writing and in advance by PREPA. PREPA will not reimburse expenses that do not comply with this provision and Appendix A. Under no circumstances will expenses for alcoholic beverages be reimbursed.

C. Third-Party Vendors and/or Out of Pocket Expenses

PREPA shall reimburse Contractor for costs that may be invoiced to Contractor by third party vendors for goods or services (related, for example, to telecommunication services, research, print materials, court reporters, or messengers) necessary to support the Services and provided exclusively for the benefit of PREPA.

V. CONFLICTS OF INTEREST

- A. Contractor acknowledges that in the performance of Services pursuant to this Contract, it has an obligation of complete loyalty towards PREPA, including having no conflict of interests. "Conflict of interests" includes representing clients who have or may have interests that are contrary to PREPA, but does not include rendering services that are unrelated to this engagement. This duty includes the continued obligation to disclose to
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PREPA all circumstances of its relations with clients and third parties which would result in a conflict of interest, and any adverse interest which would influence Contractor when executing the Contract or while it is in effect.

- B. This conduct by one of Contractor's partners, members, directors, executives, officers, clerks or employees shall be attributed to Contractor for purposes of this prohibition. Contractor shall endeavor to avoid even the appearance of the existence of a conflict of interest that has not otherwise been waived.
- C. Contractor acknowledges the power of PREPA's Chief Executive Officer to oversee the enforcement of the prohibitions established herein. If the PREPA's Chief Executive Officer determines the existence or the emergence of conflict of interest with Contractor, he shall inform such findings in writing and his intentions to terminate the Contract within a fifteen (15) day term. Within such term, Contractor can request a meeting with the PREPA's Chief Executive Officer to present its arguments regarding the alleged conflict of interest. This meeting shall be granted in every case. If such meeting is not requested within the specified term, or if the controversy is not settled satisfactorily during the meeting, this Contract shall be terminated at the end of said fifteen (15) day period.
- D. Contractor certifies that at the time of the execution of this Contract, it does not have nor does represent anyone who has interests that are in conflict with PREPA. If such conflicting interests arise after the execution of this Contract,

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Contractor shall, to the extent consistent with its obligations to other clients, notify PREPA immediately.

- E. No employee, officer, or agent of PREPA shall participate in the selection, or in the award or administration of a contract, supported by Federal funds, if a conflict of interest, real or apparent, would be involved.

VI. RESPONSIBILITIES OF PREPA

PREPA shall use reasonable efforts to cooperate with the Contractor, including by providing any information reasonably requested by Contractor and providing access to any facility at which the Services are to be performed at such times as may reasonably be requested by the Contractor.

VII. OWNERSHIP AND USE OF DOCUMENTS

Except for Contractor's working papers, its pre-existing intellectual property and electronic record, PREPA will retain ownership of all information, drafts, documents, reports, papers, and other materials ("Contract Documents") developed and prepared by the Contractor, its agents or representatives, for purposes of performing the obligation hereunder, including all intellectual property rights embodied therein. In the event of any termination, Contractor shall deliver copies of such Contract Documents to PREPA, in hard copy and/or electronic form, and the Contractor recognizes PREPA's right to request such documentation and/or electronic data. Should Contractor fail to deliver said information, PREPA may seek a judicial order to enforce its rights. PREPA shall retain copies, including reproducible copies, of the Contract



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Documents for PREPA's information, reference and use in connection with the Services.

VIII. NON-DISCLOSURE AND CONFIDENTIALITY

A. Confidential Information (the “Confidential Information”): Definition

The term Confidential Information, as used throughout this Contract, means any information concerning PREPA and/or PREPA's operations and that of its Contractor (e.g., the projects, computer processing systems, object and source codes, and other business and financial affairs of PREPA). The term Confidential Information shall also be deemed to include all notes, analysis, compilations, studies, and interpretation or other documents prepared by Contractor, its agents or representatives in connection with PREPA's operations.

B. Non-Disclosure

1. Contractor and its employees, affiliates, and authorized subcontractors agree to take all reasonable steps or measures to keep private all Confidential Information and will not, at any time, present or future, without PREPA's express written authorization, use, sell, market, or disclose any Confidential Information to any third party, firm, corporation, or association for any purpose whatsoever. Contractor further agrees that, except as they relate to the normal course of the service, the Contractor will not make copies of the Confidential Information except upon PREPA's express written authorization, signed by an authorized representative of PREPA, and will not remove any copy or sample of



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Confidential Information without the prior written authorization from PREPA. Contractor retains the right to control its work papers subject to these confidentiality provisions.

2. "Confidential Information" shall not apply to any information which:
 - i. is generally known to the public at the time of disclosure to Contractor or becomes generally known through no wrongful act on the part of Contractor;
 - ii. is in Contractor's possession at the time of disclosure otherwise than as a result of Contractor's breach of any legal obligation;
 - iii. becomes known to Contractor through disclosure by sources having the legal right to disclose such information other than PREPA and Contractor; or
 - iv. is independently developed by Contractor without reference to or reliance upon the Confidential Information.

In addition, these provisions shall not prohibit Contractor from making any disclosure pursuant to any subpoena or order of a court or a Governmental or Administrative tribunal which may assert jurisdiction over Contractor; provided that, to the extent legally permissible, Contractor shall promptly notify PREPA of any such disclosure obligations and reasonably cooperate with PREPA's efforts to lawfully avoid and/or minimize the extent of such disclosure.

3. Contractor will not disclose any Confidential Information relating to the work that Contractor performs under this Contract. Contractor may

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divulge Confidential Information to its employees who need to know such information to fulfill the purposes of this engagement provided that such persons:

- i. shall have been advised of the confidential nature of such information and Contractor shall direct them, and they shall agree, to treat such information as confidential and to return all materials to Contractor upon request, but for one copy for record purposes only; and
 - ii. in each case, such person shall be bound by the terms of this Contract.
4. In connection with the services rendered under this Contract, Contractor will furnish PREPA any necessary reports, analyses, or other such materials that exist as of the date requested, as PREPA may reasonably request. Contractor shall not invoice the time spent to gather and deliver such information. PREPA, however, acknowledges that Contractor may develop for itself, or for others, problem solving approaches, frameworks or other tools and processes developed in performing the services and any additional services provided hereunder, and nothing contained herein precludes Contractor from developing or disclosing such materials and information provided that the same do not contain or reflect Confidential Information.

 C. **Return of Documents**

Excepting Contractor's right to retain an electronic record consistent with good professional practice for legal and archival reasons and subject to the restrictions on disclosure contained in this Contract, Contractor shall return

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or destroy all Confidential Information, as well as any other document that may relate to its work under this Contract, to PREPA within thirty (30) days after date of the expiration or earlier termination of this Contract, and shall certify that all the information has been returned to PREPA or destroyed, but for electronic information held in archive and/or backup files to the extent such files cannot be deleted without unreasonable effort or expense and created in the ordinary course pursuant to established data backup/archive procedures; provided, however, Contractor may retain its own work product as long as it maintains the confidentiality of PREPA's Confidential Information as otherwise provided in this Contract. During this thirty (30) day period, and except to the extent making such documents available would result in the loss of legal privilege for PREPA, these documents shall be available for inspection by the Office of the Comptroller of Puerto Rico. This Article shall survive the termination, expiration, or completion of this Contract.

D. **Equitable Relief**

Contractor's material negligent discharge or the breach of the confidentiality clause hereinabove continuing after receipt of written warning or abandonment of the duties assigned hereunder shall constitute a breach of this Contract by Contractor and PREPA will be entitled to terminate this Contract forthwith, without having to comply with the requirements of notice set forth in Section II. B above, without limitations of any other rights and remedies under law.



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IX. TERMINATION BY THE CHIEF OF STAFF

The Chief of Staff shall have the authority to terminate this Contract at any time. If so directed by the Chief of Staff, PREPA will terminate this Contract by delivering to the Contractor a notice of termination specifying the extent to which the performance of the work under this Contract is terminated, and the effective date of termination. Upon the effective date of termination, the Contractor shall immediately discontinue all services affected and deliver to PREPA all information, studies and other materials property of PREPA. In the event of a termination by notice, PREPA shall be liable only for payment of services rendered up to and including the effective date of termination.

X. INTERAGENCY SERVICES

Both Parties acknowledge and agree that the Services may be provided to another entity of the Executive Branch which enters into an interagency agreement with PREPA or by direct disposition of the Office of the Chief of Staff. Such work will be performed under the same terms and conditions in terms of hours of work and compensation set forth in this Contract. For the purpose of this clause, the term "entity of the Executive Branch" includes all agencies of the Government of Puerto Rico, as well as public instrumentalities, public corporations.

 **XI. COMPLIANCE WITH THE COMMONWEALTH OF PUERTO RICO CONTRACTING REQUIREMENTS**

The Contractor will comply with all applicable Law, Regulations, or Executive Orders that regulate the contracting process and requirements

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of the Commonwealth of Puerto Rico. The Contractor shall provide to PREPA the Certifications mentioned on the list below, within 10 days after the signature of the Contract. The sworn statement related to the Anti-Corruption Code shall be provided by the Contractor at the date of the Contract signature.

A. Filing of Puerto Rico Income Tax Returns

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, the Contractor hereby certifies that it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. As evidence thereof, Contractor has delivered to PREPA an Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Income Tax Return for the last five (5) tax years (Form SC 6088). The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every Contractor and Subcontractor whose service the Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

B. Payment of Puerto Rico Income Taxes

In compliance with Executive Order Number OE-1991-24 of June 18, 1991, the Contractor, hereby certifies that it has complied and is current with the payment of all income taxes that are, or were due, to the Government of Puerto Rico. As evidence thereof, Contractor has



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delivered to PREPA a certification issued by the Treasury Department of Puerto Rico indicating that Contractor does not owe taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan in full compliance with its terms (Form SC 6096). During the term of this Contract, the Contractor agrees to pay and/or to remain current with any repayment plan agreed to by the Contractor with the Government of Puerto Rico. The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each Subcontractor whose service the Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

C. Compliance with Requirements of the Department of Labor and Human Resources of the Commonwealth of Puerto Rico.

Pursuant to Executive Order Number 1992-52, dated August 28, 1992 amending OE-1991-24, the Contractor certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof.

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As evidence thereof, Contractor has delivered to PREPA:

1. A certification issued by the Bureau of Employment Security (*Negociado de Seguridad de Empleo*) of the Puerto Rico Department of Labor and Human Resources certifying that

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Contractor does not owe taxes regarding Unemployment or Disability Insurance.

2. A certification issued by the Program for Social Security for Chauffeurs and Other Employees of the Puerto Rico Department of Labor and Human Resources certifying that contractor has no debt with respect to such program.

- D. Income Tax Return Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Income Tax Return for the last five (5) tax years (Form SC 6088).

E. **Real and Personal Property Taxes**

Contractor hereby certifies and guarantees that it does not have any current debt regarding property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center (*Centro de Recaudación de Ingresos Municipales* ("CRIM")). The Contractor further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. The Contractor shall provide:

1. A certification issued by the Municipal Revenues Collection Center ("MRCC"), assuring that Contractor does not owe any tax accruing during the last five (5) years to such governmental agency with respect to personal property; or negative Debt certification issued by the MRCC with respect to personal property taxes and a sworn statement executed by Contractor indicating that (i) its revenues are derived from



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the rendering of professional services, (ii) during the last 5 years (or the time in which it has been providing professional services) it has had no taxable business or personal property on the 1st of January of each year, (iii) that for such reasons it has not been required to file personal property tax returns, as required under Article 6.03 of Act 83-1991, as amended and (iv) that for such reason it does not have an electronic tax file in the MRCC's electronic system.

2. All Concepts Debt Certification issued by the MRCC assuring that Contractor does not owe any taxes to such governmental agency with respect to real and personal property; or Negative certification issued by the MRCC with respect to real property taxes.

F. Sales and Use Taxes

The Contractor has delivered to PREPA:

1. a Certification issued by the Puerto Rico Treasury Department indicating that Contractor does not owe Puerto Rico Sales and Use taxes to the Commonwealth of Puerto Rico; or is paying such taxes by an installment plan and is in full compliance with its terms.
2. a Puerto Rico Sales and Use Tax Filing Certificate, issued by the Treasury Department of Puerto Rico assuring that Contractor has filed his Puerto Rico Sales and Use Tax for the last sixty (60) contributory periods.
3. A copy of Contractor's Certificate of Merchant's Registration issued by the Treasury Department of Puerto Rico.

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G. Puerto Rico Child Support Administration (ASUME)

Contractor hereby certifies that it is not duty bound to pay child support, or if so, that Contractor is up to date or has a payment plan to such effects.

As evidence thereof, the Contractor has delivered to PREPA a certification issued by the Puerto Rico Child Support Administration (*Administración Para El Sustento de Menores (ASUME)*) certifying that the Contractor have any debt, outstanding debt, or legal procedures to collect child support payments that may be registered with ASUME.

H. Compliance with Act No. 1 of Governmental Ethics

The Contractor will certify compliance with Act No. 1-2012, as amended, known as the Ethics Act of the Government of Puerto Rico, which stipulates that no employee or executive of PREPA nor any member of his or her immediate family (spouse, dependent children, or other members of his or her household or any individual whose financial affairs are under the control of the employee) shall have any direct or indirect pecuniary interest in the services to be rendered under this Contract, except as may be expressly authorized by the Governor of Puerto Rico in consultation with the Secretary of Treasury and the Secretary of Justice of the Government. 3 L.P.R.A. § 8611 et seq.

I. Law 168-2000: Law for the Strengthening of the Family Support and Livelihood of Elderly People

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The Contractor will certify that if there is any Judicial or Administrative Order demanding payment or any economic support regarding Act No. 168-2000, as amended, the same is current and in all aspects in

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compliance. Act No. 168-2000 “*Law for the Strengthening of the Family Support and Livelihood of Elderly People*” in Spanish: “*Ley para el Fortalecimiento del Apoyo Familiar y Sustento de Personas de Edad Avanzada*”, 3 L.P.R.A. §8611 et seq.

J. **Law Num. 127, May 31, 2004: Contract Registration in the Comptroller's Office of Puerto Rico Act**

Payment for Services under this Contract will not be made until this Contract is properly registered in the Office of the Comptroller of the Government of Puerto Rico pursuant to Law Number 18 of October 30, 1975, as amended.

K. **Prohibition with respect to execution by public officers: (3 L.P.R.A. 8615(c))**

No public officer or employee authorized to contract on behalf of the executive agency for which he/she works may execute a contract between the agency for which he/she works and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

L. **Prohibition with respect to contracting with officers or employees: (3 L.P.R.A. 8615(d))**

No executive agency may execute a contract in which any of its officers or employees or any member of their family units has or has had direct or indirect economic interest during the last four (4) years prior to their holding office, unless the Governor gives authorization thereto with the



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previous recommendation of the Secretary of the Treasury and the Secretary of Justice.

M. **Prohibition with respect to contracts with officers and employees of other Government entities: (3 L.P.R.A. 8615(e))**

No public officer or employee may be a party to or have any interest in any profits or benefits produced by a contract with any other executive agency or government dependency unless the Governor gives express authorization thereto with previous recommendation from the Secretary of the Treasury and the Secretary of Justice.

N. **Prohibition with respect to evaluation and approval by public officers: (3 L.P.R.A. 8615(f))**

No public officer or employee who has the power to approve or authorize contracts shall evaluate, consider, approve or authorize any contract between an executive agency and an entity or business in which he/she or any member of his/her family unit has or has had direct or indirect economic interest during the last four (4) years prior to his/her holding office.

O. **Prohibition with respect to execution by public officers contracts with former public officers: (3 L.P.R.A. 8615(h))**

No executive agency shall execute contracts with or for the benefit of persons who have been public officers or employees of said executive agency until after two (2) years have elapsed from the time said person has ceased working as such.



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P. Dispensation

Any and all necessary dispensations have been obtained from any government entity and that said dispensations shall become part of the contracting record.

Q. No Compensation for Appointments: (3 L.P.R.A. 8615(o))

The Contractor acknowledges and accepts that he or she receives no payments or compensation for regular services rendered under a designation from any other public entity, except those authorized by law.

R. Rules of Professional Ethics

The Contractor acknowledges and accepts that it is knowledgeable of the rules of ethics of his or her profession and assumes responsibility for his or her own actions.

S. Anti-Corruption Code for a New Puerto Rico

1. Contractor agrees to comply with the provisions of Act No. 2-2018, as the same may be amended from time to time, which establishes the Anti-Corruption Code for a New Puerto Rico.
2. The Contractor hereby certifies that it does not represent particular interests in cases or matters that imply a conflict of interest, or of public policy, between the executive agency and the particular interests it represents.
3. Contractor shall furnish a sworn statement to the effect that neither Contractor nor any president, vice president, executive director or any member of a board of officials or board of directors, or any person



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performing equivalent functions for Contractor has been convicted of or has pled guilty to any of the crimes listed in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico or any of the crimes included in Act No. 2-2018.

4. Contractor hereby certifies that it has not been convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3, or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal Code, any of the crimes typified in Act No. 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.
5. PREPA shall have the right to terminate the Contract in the event Contractor is convicted in Puerto Rico or United States Federal court for under Articles 4.2, 4.3, or 5.7 of Act No. 1-2012, as amended, known as the Organic Act of the Office of Government Ethics of Puerto Rico, any of the crimes listed in Articles 250 through 266 of Act No. 146-2012, as amended, known as the Puerto Rico Penal



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Code, any of the crimes typified in Act No. 2-2018, as amended, known as the Anti-Corruption Code for a New Puerto Rico or any other felony that involves misuse of public funds or property, including but not limited to the crimes mentioned in Article 6.8 of Act No. 8-2017, as amended, known as the Act for the Administration and Transformation of Human Resources in the Government of Puerto Rico.

T. **Provisions Required under Act No. 14-2004:**

Contractor agrees that articles extracted, produced, assembled, packaged or distributed in Puerto Rico by enterprises with operations in Puerto Rico, or distributed by agents established in Puerto Rico shall be used when the service is rendered, provided that they are available.

U. **Consequences of Non-Compliance**

The Contractor expressly agrees that the conditions outlined throughout this Section are essential requirements of this Contract. Consequently, should any one of these representations, warranties or certifications be incorrect, inaccurate or misleading, in whole or in part, there shall be sufficient cause for the PREPA to render this Contract null and void, and the Contractor shall reimburse the PREPA all moneys received under this Contract. If any of the certifications listed in items A through F of this Section XI shows a debt, and Contractor has requested a review or adjustment of this debt, Contractor hereby certifies that it has made such request at the time of the Contract execution. If the requested review

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or adjustment is denied and such determination is final, Contractor will provide, immediately, to PREPA a proof of payment of this debt; otherwise, Contractor accepts that the owed amount be offset by PREPA and retained at the origin, deducted from the corresponding payments. The Contractor accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every Contractor and Subcontractor whose service the Contractor has secured in connection with the services to be rendered under this Contract and shall forward evidence to PREPA as to its compliance with this requirement.

XII. INSURANCE

The Contractor shall secure and maintain in full force and effect during the life of this Contract as provided herein, policies of insurance covering all operations engaged in by the Contract as follows:

1. Commonwealth of Puerto Rico Workmen's Compensation Insurance

The Contractor shall provide Workmen's Compensation Insurance as required by the Workmen's Compensation Act 45-1935 of the Commonwealth of Puerto Rico. The Contractor shall also be responsible for compliance with said Workmen's Compensation Act by all its subcontractors, agents, and invitees, if any. The Contractor shall furnish a certificate from the Puerto Rico State Insurance Fund showing that all personnel employed in the work are covered by the Workmen's Compensation Insurance, in accordance with this Contract.



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2. Employer's Liability Insurance

The Contractor shall provide Employer's Liability Insurance with a minimum bodily injury limits of \$1,000,000 for each employee and \$1,000,000 for each accident covering against the liability imposed by Law upon the Contractor as result of bodily injury, by accident or disease, including death arising out of and in the course of employment, and outside of and distinct from any claim under the Workmen's Compensation Act of the Commonwealth of Puerto Rico.

3. Commercial General Liability Insurance

The Contractor shall provide a Commercial General Liability Insurance with limits of \$1,000,000 per occurrence and \$1,000,000 aggregate.

4. Commercial Automobile Liability Insurance

The Contractor shall provide a Commercial Automobile Liability Insurance with limits of \$1,000,000 combined single limit covering all owned, non-owned, and hired automobiles.

5. Professional Liability Insurance

The Contractor shall provide a Professional Liability Insurance with limits of \$1,000,000 per claim and \$1,000,000 aggregate.

Requirements under the Policies

The Commercial General Liability and Commercial Automobile Liability Insurance required under this Contract shall be endorsed to include:

- a. As Additional Insured:


Puerto Rico Electric Power Authority
(PREPA) Risk Management Office
PO Box 364267
San Juan, Puerto Rico 00936-4267

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- b. A 30 day cancellation or nonrenewable notice to be sent to the above address.
- c. An endorsement including this Contract under contractual liability coverage and identifying it by number, date and parties to the contract.
- d. Waiver of subrogation in favor of Puerto Rico Electric Power Authority (PREPA).
- e. Breach of Warranties or Conditions:

"The Breach of any of the Warranties or Conditions in this policy by the Insured shall not prejudice PREPA's rights under this policy."

Furnishing of Policies

All required policies of insurance shall be in a form acceptable to PREPA and shall be issued only by insurance companies authorized to do business in Puerto Rico.

The Contractor shall furnish a certificate of insurance in original signed by an authorized representative of the insurer in Puerto Rico, describing the coverage afforded.

XIII. NOTICES

All notices and other communications hereunder shall be in writing and shall be deemed given when delivered personally or sent by telecopy, or sent, postage prepaid, by registered, certified or express mail (return receipt requested) or reputable overnight courier service and shall be deemed given when so delivered by hand, or telecopied, or if mailed, three days after mailing (one business day in the case of express mail or overnight courier service) to the Parties at the following addresses:



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If to Contractor:

Gerry Murray
Vice President
Power Constructors, Inc.
3940 Glenbrook Drive
PO Box 1066
Hailey, Idaho 83333

If to PREPA:

José F. Ortiz Vázquez
Chief Executive Officer
Puerto Rico Electric Power Authority
PO Box 364267
San Juan, Puerto Rico 00936-4267

XIV. COUNTERPARTS

This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

XV. INDEPENDENT CONTRACTOR

The Contractor shall be considered as an independent contractor for all material purposes under this Contract, and all persons engaged or contracted by Contractor for the performance of its services herein shall be considered as its partners, employees, contractors or agents or those of its subcontractors, and not as partners, employees, contractors or agents of PREPA. In consequence, Contractor is not entitled to any fringe benefits such as: but not limited to: vacation, sick leave, and other.

XVI. RESPONSIBILITY FOR DAMAGES

The appearing Parties agree that their responsibilities for damages under this Contract will be governed by the Puerto Rico Civil Code and its case law, as dictated by the Supreme Court of Puerto Rico.



In no event shall Contractor be liable for consequential, special, indirect, incidental, punitive, or exemplary loss, damage, or expense (including, without limitation, loss profit and opportunity cost), relating to this Contract. In

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circumstances where all or any portion of the provisions of this paragraph is finally judicially determined to be unavailable, the aggregate liability of the Contractor for any claim shall not exceed an amount which is proportional to the relative fault that its conduct bears to all other conduct giving rise to such claim.

Notwithstanding any other provision of this Contract to the contrary, PREPA agrees to limit Contractor's liability to the total compensation received by Contractor for the services under which the liability arises.

XVII. APPLICABLE LAW AND VENUE

This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico. Also, the Parties expressly agree that only the state courts of Puerto Rico will be the court of competent and exclusive jurisdiction to decide over the judicial controversies that the appearing Parties may have among them regarding the terms and conditions of this Contract.

The Parties shall attempt in good faith to resolve any dispute arising out of or relating to this Contract, or any breach hereof or any Services performed hereunder, promptly by negotiation between executives who have authority to settle the controversy. Any Party may give the other Party written notice of any dispute not resolved during the normal course of business. Such notice shall include a statement of that Party's position and documentation supporting that party's claim and the name and title of the executive who will be representing that party and any other person who will accompany the executive. The receiving Party shall respond in kind within fifteen (15) days



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of the date of notice. Within thirty (30) days after delivery of the initial notice, the executives of both Parties shall meet at a mutually acceptable time and place and use good faith efforts to resolve the dispute. If dispute is not then resolved, either Party may give the other written notice that these executive negotiations are concluded. Negotiations pursuant to this section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of Law and rules of evidence. Time requirements herein may be modified upon mutual written consent of the Parties.

In the event that the Parties are unable to settle the dispute through direct negotiations as set forth above, all remaining controversies or claims shall then be submitted to mediation within ten (10) days from written notice of concluded negotiations following the Commercial Mediation Rules published by the American Arbitration Association. Unless the Parties agree otherwise, mediation shall be held in San Juan, Puerto Rico. This agreement to mediate and any other agreement or consent to mediate entered into in accordance with this Contract shall be specifically enforceable under the prevailing law of any court having jurisdiction.

XVIII. SEPARABILITY

If a court of competent jurisdiction or other tribunal declares any of the Contract provisions as null or invalid, such holding will not affect the validity and effectiveness of the remaining provisions of the Contract and the Parties agree to comply with their respective obligations under such provisions not included by the judicial declaration.



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XIX. SAVE AND HOLD HARMLESS

The Contractor agrees to hold harmless and to indemnify PREPA for all expenses and costs of any nature (including reasonable attorney's fees) incurred by PREPA arising out of any third party claim made by any person for bodily injuries, including death, or for physical damage to tangible property, to the extent directly caused by the Contractor's negligent act or omission in the performance or nonperformance of its obligations under the Contract, but not to the extent directly caused by negligence or tort of PREPA or a third party, which is not an employee or subcontractor of the Contractor. With respect to any indemnity set forth in this Contract, each indemnitee shall give prompt notice of its receipt of any threat, indication or other notice of any claim, investigation or demand that might give rise to any losses required to be indemnified hereunder and shall reasonably cooperate in the defense of such claim. The indemnifying party shall have the right, but not the obligation, to conduct defense of such action at its sole expense.

XX. CHANGE IN LAW

During the term of this Contract, any change in law, including, but not limited to changes in applicable tax law, which cause an increase in the Contractor's costs when providing the services, shall be the Contractor's responsibility and PREPA shall not be obligated to increase the Contract

 Amount.

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XXI. FORCE MAJEURE

The Parties shall be excused from performing their respective responsibilities and obligations under this Contract and shall not be liable in damages or otherwise, if and only to the extent that they are unable to perform, or are prevented from performing by a force majeure event.

For purposes of this Contract, force majeure means any cause without the fault or negligence, and beyond the reasonable control of, the Party claiming the occurrence of a force majeure event. Force majeure may include, but not be limited to, the following: Acts of God, industrial disturbances, acts of the public enemy, war, blockages, boycotts, riots, insurrections, epidemics, earthquakes, storms, floods, civil disturbances, lockouts, fires, explosions, interruptions of services due to the acts or failure to act of any governmental authority; provided that these events, or any other claimed as a force majeure event, and/or its effects, are beyond the reasonable control and without the fault or negligence of the party claiming the force majeure event, and that such party, within ten (10) days after the occurrence of the alleged force majeure, gives the other party written notice describing the particulars of the occurrence and its estimated duration. The burden of proof as to whether a force majeure event has occurred shall be on the party claiming the force majeure.

XXII. NOVATION


The Parties expressly agree that no amendment or change order, which could be made to the Contract during its term, shall be understood as a contractual

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novation, unless both Parties agree to the contrary, specifically and in writing.

The previous provision shall be equally applicable in such other cases where PREPA gives the Contractor a time extension for the compliance of any of its obligations under this Contract, or where PREPA dispenses the claim or demand of any of its credits or rights under the Contract.

XXIII. ENTIRE CONTRACT

Subject to any additional Federal or Commonwealth requirements not specified herein, this Contract and its attachments, (and any executed amendments to either), constitutes the entire Contract between the Parties and supersedes all prior agreements and understandings, oral or written, with respect to the subject matter hereof. This Contract will inure to the benefit of, and be binding upon, the Parties and their respective successors and assigns.

IN WITNESS THEREOF, the Parties hereto execute this Contract as of the 12 of April 2019.

PUERTO RICO ELECTRIC POWER
AUTHORITY

José F. Ortiz Vázquez
Chief Executive Officer
Tax ID Number: 660-43-3747

POWER CONSTRUCTORS, INC.

Gerry Murray
Vice President
Tax ID Number: 26-0036475

Gerry Murray

Annex A

POWER Constructors Inc.

Professional Services Rates

PREPA FY2019

Category	HOME OFFICE	FIELD
Project Manager / Senior Technical Consultant	\$ 324.57	\$ 418.32
Mid-Level Technical Consultant	\$ 221.50	\$ 281.99
Junior Technical Consultant	\$ 150.96	\$ 190.95
Project Administration / Invoice Accounting	\$0.00	\$0.00

Submitted 03/15/2019

Valid through 06/30/2019

GM